Office Action Summary	Application No.	Applicant(s)	
	10/715,574	KITAZAWA, MUTSUYA	
	Examiner	Art Unit	
	Jyoti Nagpaul	1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 February 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *33-35,37-48 and 57-69* is/are pending in the application.

4a) Of the above claim(s) *49-56* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *33-35, 37-48 and 57-69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/9/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Amendment filed on October 20, 2006 has been acknowledged. Claims 33-35, 37-48 and 57-69 are pending.

Response to Amendment

Upon further consideration, a new rejection has been applied.

Rejection of Claims 33-35, 44-45, 49-52, 54 and 57-59 as being anticipated by Johnson (US 4806316) has been withdrawn.

Rejection of Claims 43 and 46-47 as being unpatentable over Johnson in view of Cox has been withdrawn.

Objection of Claims 36-42, 48, 53 and 55-56 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims has been reconsidered because a new rejection has been applied with the teachings of previous objected claims being taught by Daley et al. Refer below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 33-35, 37-48 and 57-69** are rejected under 35 U.S.C. 102(b) as being anticipated by Daley (US 4854486).

Daley teaches a system for dispensing or delivery of liquid reagents from containers to sample holders of an analytical instrument.

With respect to Claim 33, 60, 63 and 69, the system comprising a first longitudinally extending cylindrical ring (6) defining an interior area and a longitudinally extending fluid conduit (13, 11, 20) positioned within the interior area and defining a fluid flow aperture. A laterally extending wall (1) between the first cylindrical ring (6) and the fluid conduit (13, 11, 20), the laterally extending wall (1) having a top surface directed towards the processing apparatus/analytical instrument and defining at least one vent aperture (7) creating fluid venting communication between the fluid reservoir (4) and the top surface. The system further comprising a second cylindrical ring (5) longitudinally adjacent the first cylindrical ring (6). (See Figures 3-4B) The fluid conduit (13,11,20) extends through the wall (10) and extends beyond the top surface of the wall (1) with the interior space defined by the first cylindrical ring (6).

With respect to Claim 34 and 61, the at least one vent apertures (7) provide venting communication between the reservoir (4) and the processing apparatus/analytical instrument.

With respect to Claim 35 and 62, it is clearly capable for the fluid conduit (13, 11, 20) to provide bi-directional fluid communication between the reservoir and the processing apparatus. Examiner believes that if the container (3) is flipped over after dispensing in the processing apparatus, by gravity the reagents left in the conduit (13, 11, 20) will settle back into the reservoir causing bi-directional fluid communication between the fluid reservoir and the processing apparatus.

With respect to Claims 37-38, the first (6) and second (5) have substantially the same diameter.

With respect to Claim 39, the fluid conduit (13, 11, 20) extends through the wall (1) and extends beyond the top surface of the wall (1) within the interior space defined by the first cylindrical ring (6).

With respect to Claim 40 and 64, the fluid conduit (13,11,20) extends through the wall (1) and extends within an interior space defined by the second cylindrical ring (5).

With respect to Claims 41 and 42, a retention cylindrical ring (10) is disposed within the second cylindrical ring (5) and is disposed around the fluid conduit (13, 11, 20) forming a cylindrical gap between the fluid conduit and the retention cylindrical ring (10).

With respect to Claim 43 and 65, a plurality of vent apertures (7) arranged concentrically within the wall (7).

With respect to Claim 44 and 66, the first cylindrical (6) is ***configured to*** mate with a corresponding connector on the processing apparatus substantially forming a seal creating an enclosure between the interior of the first ring and the processing apparatus.

With respect to Claim 45 and 67, the fluid conduit is ***configured to*** mate with a corresponding fluid conduit of the processing apparatus.

With respect to Claim 46 and 68, a concentric vent ring (18) formed by an outer surface of the fluid conduit (13,11,20) and inner surface of the first concentric ring (6).

With respect to Claim 47, the concentric vent ring (18) is in communication with the interior of the tissue processor.

With respect to Claim 48, the fluid conduit (13,11,20) is disposed within the first 6) and second (5) cylindrical rings and passes through the wall (1) between interior spaces defined by the rings.

With respect to Claim 57, a first longitudinally extending cylindrical ring (6), a longitudinally extending fluid conduit (13,11,20) within the first cylindrical ring (6), wherein the fluid conduit (13,11,20) provides bi-directional fluid communication between the fluid container and the processor. Examiner believes that if the container (3) is flipped over after dispensing the reagent in the processing apparatus, by gravity the reagents left in the conduit (13, 11, 20) will settle back into the reservoir causing bi-directional fluid communication between the fluid reservoir and the processing apparatus. Daley further teaches a second longitudinally extending cylindrical ring (5) and a laterally extending barrier (18) between the fluid conduit (13,11,20) and the first cylindrical ring (6), the barrier having first and second sides.

With respect to Claim 58, at least one vent aperture (7) provided in the barrier (18), the vent aperture (7) creating fluid venting communication between the first side of the barrier (18) and the second side of the barrier (18) within an area defined by the first cylindrical ring (6).

With respect to Claim 59, the vent aperture (7) provides ventilation between the fluid container (3) and the processor/analytical instrument.

Response to Arguments

3. Applicant's arguments with respect to claims 33-35, 37-48 and 57-69 have been considered but are moot in view of the new ground(s) of rejection. Refer above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Nagpaul whose telephone number is 571-272-1273. The examiner can normally be reached on Monday thru Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JN

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